

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Expedited Package Services 3 (MC2010-28)
Negotiated Service Agreement

Docket No. CP2013-25

PUBLIC REPRESENTATIVE COMMENTS

(December 21, 2012)

The Public Representative hereby provides comments pursuant to Order No. 1578.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice of its entering into an additional Global Expedited Package Services (GEPS) 3 contract.² GEPS contracts provide incentive pricing to businesses that mail products to foreign destinations using Express Mail International (EMI), Priority Mail International (PMI), or both. Notice at 4. To qualify for a GEPS contract, a business mailer “must be capable, on an annualized basis, of paying at least \$200,000 in international postage to the Postal Service.”³

Since the addition of the GEPS 3 product to the competitive product list, the Commission has determined that additional GEPS 3 contracts were functionally equivalent to the baseline agreement and should be included in the GEPS 3 (MC2010-28) product.

¹ PRC Order No. 1578, Notice and Order Concerning Additional Global Expedited Package Services 3 Contract, December 13, 2012.

² Notice of United States Postal Service Filing of a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, December 12, 2012 (Notice).

³ Notice of the United States Postal Service of Minor Classification Change, Docket No. MC2012-8, January 30, 2012, at 3, showing conforming changes to the draft Mail Classification Schedule, 2510.3.1.

The instant GEPS 3 contract is with a new mailer. If approved, the contract would expire one year after the effective date, to be established by Postal Service notice to the mailer. *Id.* at 3; Attachment 1 at 7.

The Postal Service states that the instant GEPS 3 contract is functionally equivalent to the baseline agreement and is in compliance with the requirements of 39 U.S.C. § 3633. *Id.* at 6. The Postal Service therefore requests that the instant contract “be added to the GEPS 3 product grouping.” *Id.*

COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, the instant GEPS 3 contract, and supporting financial workpapers. Based upon that review, the Public Representative concludes that the instant contract is functionally equivalent to the baseline agreement. In addition, it appears the negotiated prices in the instant contract will generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633.

Functional Equivalence. The Postal Service asserts that the instant contract “shares similar cost and market characteristics . . . [and the] functional terms of the contract at issue are the same as those of the contract that is the subject of Docket No. CP2010-71, which serves as the baseline agreement for the GEPS 3 product grouping.” *Id.* at 3. However, the Postal Service identifies differences between the instant contract and the GEPS 3 baseline contract, including: revisions to Articles 2, 6, 7 and 10 that limit the Option B postage payment to permit imprint using USPS-provided Global Shipping Software; in Article 4, the exclusion of Flat Rate items from Qualifying Mail; in Article 10, a revised option for tendering Qualifying Mail; in Article 12, a revision concerning the possibility of terminating the agreement pursuant to Article 14 modifications; in Article 19, a reference to PRC Docket Numbers ACR 2012, ACR 2013, and/or ACR 2014, in which the Postal Service may file confidential information in connection with the contract; and, the addition of Article 21 concerning Intellectual Property, Co-Branding, and Licensing. *Id.* at 4-6. The Postal Service maintains that these differences do not affect either the fundamental service the Postal Service is

offering or the fundamental structure of the contract. *Id.* at 6. The Public Representative agrees with the Postal Service and concludes that the instant contract is functionally equivalent to the baseline agreement.

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial model filed under seal with the Postal Service's Notice, it appears the negotiate prices in the instant GEPS 3 contract should generate sufficient revenues to cover costs and thereby satisfy the requirements of § 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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